

10-06-04



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Applicant: Tanner et al. Atty. Docket No.: RPS6097-US  
Serial No.: 10/016,352 Examiner: Joseph S. Del Sole  
Filing Date: November 2, 2001 Art Unit: 1722  
Entitled: APPARATUS AND METHOD FOR MANUFACTURING ENCAPSULATED PRODUCTS

Assistant Commissioner for Patents  
Box – PETITIONS (NO FEE)  
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10(A)

Date of Deposit: 10/15/04

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Jennifer Warner

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT  
PURSUANT TO 37 CFR §1.181

Dear Sir:

This communication is in response to a Notice of Abandonment mailed on September 30, 2004. A copy of the Notice of Abandonment is attached hereto. The reason for abandonment was allegedly Applicant's failure to timely pay the issue fee due August 17, 2004. Applicant respectfully submits that the issue fee was filed via express mail on August 16, 2004 as evidenced by the attached Statement of Jennifer Warner, I.P. Administrator and the accompanying documents in support.

Applicants' respectfully request the Petitions Branch to withdraw the holding of abandonment, accept the enclosed issue fee transmittal form and allow this patent to proceed to grant.

Respectfully submitted,

Date: Oct 5, 2004

By: Donald O. Nickey

Donald O. Nickey, Reg. No. 29,092

Attorney for Applicants

Cardinal Health, Inc.

7000 Cardinal Place

Dublin, Ohio 43017

Telephone: (614) 757-5542

Facsimile: (614) 757-2243



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

in re:

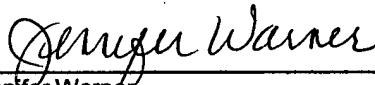
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\_\_\_\_\_  
Jennifer Warner

**STATEMENT IN SUPPORT OF PETITION TO  
WITHDRAW HOLDING OF ABANDONMENT**

**Declaration of Jennifer Warner**

I, Jennifer Warner, make the following statement regarding the above-referenced U.S. patent application.

1. I am employed as the Intellectual Property Administrator for Cardinal Health, Inc. and am responsible for filing documents with the U.S. Patent and Trademark Office.
2. A Notice of Abandonment, mailed September 30, 2004 was received in this office and, immediately upon receipt, the file and the Notice of Abandonment was given to Donald O. Nickey. From an inspection of the file, it was noted that the Issue Fee Transmittal form was sent via express mail on August 16, 2004.
3. A copy of the Issue Fee Transmittal form, in duplicate, and a self-addressed, stamped post card were prepared on August 16, 2004 and the express mail envelope was deposited with the U.S. Postal Service in the box marked EXPRESS MAIL.
4. A copy of the postcard and express mail receipt document that accompanied the Issue Fee Transmittal form are attached hereto.

4. A copy of the tracking notice from the U.S. Postal Service indicating no record exists of that item is attached.
5. I further declare that the statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

Jennifer Warner  
Jennifer Warner,  
Intellectual Property Administrator  
Cardinal Health, Inc.

State of Ohio,  
County of Franklin, ss:

Sworn to before me and subscribed in my presence this 5<sup>th</sup> day of October, 2004.

Donald O. Nickey  
Notary Public

RONALD O. NICKEY, Attorney-At-Law  
Notary Public - State of Ohio  
My commission has no expiration date  
Sec. 147.04 R.C.

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APPLICATION NUMBER	FLING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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10/016,352

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED:

## NOTICE OF ABANDONMENT

This application is abandoned in view of:

Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.

A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.

A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).

No reply has been received.

Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).  
 The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).

The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$ \_\_\_\_\_.

The issue fee and publication fee, if applicable, have not been received.

Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).  
 Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.

No corrected drawings have been received.

The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.

The reason(s) below: \_\_\_\_\_  
Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Serial No. 101016352 Filing Date: 11/21/01 Atty. Docket No.: RPS6097US

Applicant: Tanner et al.

Title: APPARATUS AND METHOD FOR MANUFACTURING  
EMULSIFIED PRODUCTS

The PTO stamp hereon acknowledges receipt of the indicated documents.

Patent Application with:

- pages of claims
- pages of drawings – formal/informal
- Fee Transmittal form
- Utility Application Transmittal form
- Inventor Declaration (includes POA)
- Separate Power of Attorney
- IDS with 1449
- copies of cited references enclosed
- Fee Transmittal form
- Issue fee transmittal forms
- Request for Extension of Time
- Certificate of Mailing date of 8/16/04 via

First class mail – postage prepaid

Express Mail No. EV404972413 US

Other: \_\_\_\_\_

Response to:

- Notice to Filing Missing Parts
- Office Action
- Fee Transmittal
- Extension of Time
- PCT related forms

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Attn: Jennifer Warner  
RPS6097-US

**TO: (PLEASE PRINT)**

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